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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:

Michael M. Burrell (as corrected)

Application No.: 08/284,199

Group Art Unit: 1803

Filed: August 2, 1994

Examiner: D. FOX

For: MODIFICATION OF PLANT  
METABOLISM

Attorney Docket No.: 9341-005

DECLARATION OF MICHAEL M. BURRELLAssistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

I, MICHAEL MEYRICK BURRELL, declare and state that:

1. I am the sole inventor of the claimed subject matter of the above-identified patent application.

2. I executed on March 5, 1993 a Declaration Under Rule 37 C.F.R. 1.132 (the "earlier declaration") which was filed with the Patent and Trademark Office on March 22, 1993 in connection with Application No. 07/991,451 (the "'451 application"). The present application is a continuation of the '451 application. At the request of the Examiner, Applicant on October 30, 1995 submitted a copy of the earlier declaration and made it of record in the file of the present application.

3. I stated in the earlier declaration that tubers from transgenic potato plants (variety Prairie) containing and expressing a chimeric gene comprising a patatin promoter driven *E. coli Glg C<sub>16</sub>* (i.e., *glgC-16*) adenosine diphosphoglucose pyrophosphorylase (ADPGPP) coding sequence have less sugar and more starch than tubers from control potato plants (i.e., potato lines 81, 87 and 2).

PBDC-132513.1

4. Those findings were based on analysis of results from partially-completed, greenhouse experiments. Those experiments and their final outcomes are particularly described in Sweetlove et al., 1996, Biochem. J. 320:487-492 ("Sweetlove I"); and Sweetlove et al., 1996, Biochem. J. 320:493-498 ("Sweetlove II").

5. The completed experiments, as reported in Sweetlove II, and additional, subsequent greenhouse and field experiments show that tubers from *glgC-16*-expressing transgenic potato plants do not have significantly more starch than tubers from control potato plants.

6. Accordingly, the findings that I stated in the earlier declaration regarding the starch content of tubers from *glgC-16*-expressing transgenic potato plants are inconsistent with those stated in Sweetlove II.

I hereby declare further that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true and further I make these statements with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 29-9-98

Michael M. Burrell  
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